In the High Court of Judicature at Madras

Dated:11.07.2006

Coram:

The Hon'ble Mr. Justice P. SATHASIVAM
and
The Hon'ble Mr. Justice V. DHANAPALAN

Habeas Corpus Petition No.309 of 2006

Kumar .. Petitioner

vs.

1. The Commissioner of Police
   Greater Chennai
   Egmore, Chennai 8.

2. The Secretary to Government
   Prohibition and Excise Department
   Government of Tamil Nadu
   Fort St. George
   Chennai 600 009.

3. The Superintendent of
   Central Prisons
   Chennai 600 003. .. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of writ of habeas corpus as stated therein.

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For petitioner : Mr. R. Rajan
for Mr. S. Pannerselvan
For respondents : Mr. M. Babu Muthu Meeran
Addl. Public Prosecutor

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ORDER

(Order of the Court was made by P. SATHASIVAM,J.)

The petitioner by name Kumar, challenges the impugned order of detention dated 13.12.2005, detaining his son Amalraj @ Balaji @ Vishnu as "Goonda" under Section 3 (1) of the Tamil Nadu Prevention of Dangerous activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1981 (Tamil Nadu Act 14 of 1982).

2. Heard both sides.

3. At the foremost, the learned counsel for the petitioner submitted that the representation of the detenu dated 18.12.2005 sent to the detaining authority i.e., before the order of confirmation by the Government was not considered by the said authority. With reference to the same, learned Additional Public Prosecutor by placing the records, reports that no such representation was received by the detaining authority. In the light of the same, we reject the first contention of the learned counsel for the petitioner.

4. The learned counsel for the petitioner next submitted that except the first adverse case, other adverse cases, viz., adverse case Nos.2 to 5 were foisted after the alleged ground case that is said to have taken place on 23.11.2005. According to the learned counsel, there is no public order warranting invocation of Act 14 of 1982. In support of the above contention, he relied on the decision of the Supreme Court in the case of Darpan Kumar Sharma vs. State of Tamil Nadu reported in 2003 SCC (Cri) 537.

5. In the light of the above contention, we verified the details furnished in the grounds of detention. It is not in dispute that the first adverse case ended in conviction. No doubt, that was in the year 2004. The second adverse case relates to an occurrence that took place on 29.08.2005, wherein the detenu and his associates committed the offence of snatching cash bag from one Varadharajan. The third adverse case, according to the respondents, took place on 25.08.2005, wherein he committed theft of auto bearing Registration No.TN-01-V-3146 parked at No.8, Nawab Abdullah Avenue, 2nd Street, Chennai 6. The 4th adverse case relates to an occurrence that took place on 31.10.2005, wherein he and his associates came in a motor cycle and committed the offence of snatching purse from one Ganesan, who kept the gold jewels of about 2 ¼ sovereign and cash of Rs.200/- in the purse. The 5th adverse case relates to an occurrence that took place on 19.11.2005, wherein the detenu and his associates committed the theft of Hero Honda Splender motor cycle bearing Registration No.TN-04-J-5401 parked near Sridhar Tea Shop at Medavakkam Bazaar. The ground case relates to an occurrence that took place on

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23.11.2005 and the offence involved is under Sections 341, 392, 397, 427 and 506 (2) IPC and a case has been registered on the file of S.10 Pallikaranai Police Station in Crime No.1705/2005. Though it is contended that all the adverse cases were foisted only after the arrest in the ground case i.e., on 23.11.2005, in the light of the details mentioned in the grounds of detention and the materials available in the paper book supplied to the detenu, we are unable to accept the argument of the learned counsel for the petitioner.

6. The learned counsel for the petitioner further contended that inasmuch as 6 stolen properties were recovered from one Prakash and the detenu had nothing to do with the same, the impugned detention order passed by the detaining authority cannot be sustained.

7. The learned Additional Public Prosecutor by taking us through the confession statement of the detenu which is available at page 53 of the paper book, pointed out that in the light of his statement, which is voluntary, the claim of the counsel for the petitioner cannot be accepted. We perused the statement of the detenu. We are satisfied that merely because there is a reference in respect of seizure of stolen articles from one Prakash, it cannot be claimed that the detenu had nothing to do with the same. Further, all these factual details have to be considered at the time of trial. We are of the view that the detaining authority taking note of his past records, i.e., incidents of the year 2004-2005 and considering the ground case which took place on 23.11.2005 and after satisfying himself that the presence of the detenu would be prejudicial to the maintenance of public order, passed the detention order under Act 14 of 1982. In such circumstances, we are of the view that the decision of the Supreme Court 2003 SCC (Cri) 537 (cited supra) relied on by the counsel for the petitioner is not helpful to the case on hand. Accordingly, we do not find any merit in the above petition; hence, the same is dismissed.

Kh

Sd/
Asst.Registrar

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Sub Asst.Registrar

To

1. The Secretary to Government
   Prohibition and Excise Department
   Government of Tamil Nadu
   Fort St. George, Chennai 600 009.

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2. The Commissioner of Police
   Greater Chennai
   Egmore, Chennai 600 008.

3. The Inspector General of Prisons
   Chennai 2.

4. The Superintendent
   Central Prison, Chennai.

5. The Director General of Police
   Tamil Nadu, Chennai 4.

6. The Public Prosecutor
   High Court, Madras.

H.C.P.No.309 of 2006

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